

THURSDAY, 9 o'clock, A. M., December 13, 1849.

The Senate was called to order by the President. Senators present: Messrs. Burleson, Davis, Gage, Grimes, Hart, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward, Walker and Wallace. The journals of yesterday were read and adopted.

Mr. Phillips presented the petition of Fernando De Leon; which was read, and, on motion of Mr. Phillips, referred, with the accompanying documents, to the committee on Claims and Accounts.

Mr. Gage, chairman of the committee on County Boundaries, to whom was referred a bill creating the county of Tarrant, reported the same back to the Senate, with the following amendments, to wit:

Strike out all of the 4th line in 4th section from the word "proper" to the word "may," and recommend its passage.

Mr. Phillips, chairman of the committee on the Judiciary, to whom was referred a bill prescribing the mode of adoption, reported the same back to the Senate, without amendment for their action.

Mr. Phillips, also, made the following report:

COMMITTEE ROOM, December 12, 1849.

HON. JOHN A. GREER,

President of the Senate:

The committee on the Judiciary have attentively considered the petition of the executors of the last will and testament of D. L. Richardson asking the passage of a law for the emancipation of two slaves named Marcellus and Clara.

Your committee believe that the constitution and existing laws of the State fully authorize the owners of slaves to liberate them, when so disposed, with the single restriction as to the claim of creditors. The only object to be attained by any additional legislation, on the subject, would seem to be *their remaining in the country* after such liberation. The question then, for our consideration, is not that of *liberty* on the one hand, or *slavery* on the other, but of *policy alone*. As such, it has, long since, been settled by uniform legislation, or more properly speaking, by our *refusing* to legislate on the subject.

At every session of the Legislature, applications of a similar character have been made, but without success. Some of these, it must be admitted, presented strong appeals to our sympathy.

and could legislative action and its influence have been limited to them, without affecting the body politic, no doubt, the petitioners would have been heard with favor.

But the supposition is untenable. Both history and experience teach us, with a fearful certainty, that cannot be questioned, that the continued residence of free negroes in a slave State, sooner or later, must prove its veriest curse. The slaves, by their intercourse with those of their own color who are free, are rendered unhappy, discontented and vicious. The property of the master is thereby depreciated in value, and often becomes entirely worthless. And not only so, but as the number of those, who are free, increases, the evils are multiplied in proportion, and the final result, not unfrequently is, insubordination, insurrection and general massacre.

The only safe plan, on which emancipation can be conducted, is, that provided for by our present laws, *removing them to free soil territory*. The desires of the owner can thus be gratified on this subject, as on any other, *subservient to the rights of other members of the same community*. The law imposes this restriction upon all, and that, too, in matters of less general interest than the one under review. Nor ought there to be any complaint, for all equally participate in the benefits resulting from the rule.

But it may be said that the 8th article of the constitution expressly confers the power on the Legislature of passing an *emancipation law*, saving the rights of creditors. Your committee view this article in the constitution as simply *permissive*, leaving the subject to the sound discretion of the Legislature. It imposes no imperative duty. The power, under the restriction imposed, will, no doubt, be exercised, when our circumstances shall so far have changed as to require a new and different course of policy from that hitherto adopted. We discharge our duty by conforming our action to facts as they exist, and by attempting, as far as possible, to prepare, in due time, for what we can foresee. Entertaining these views, your committee return the petition to the Senate and recommend that it be laid on the table.

A. H. PHILLIPS, *Chairman*.
Mr. Van Derlip, from the committee on the Judiciary, made the following counter report:

SENATE CHAMBER, December 13, 1849.

To the Hon. J. A. GREER,
President of the Senate:

The undersigned, a minority of the committee on the Judiciary, to whom was referred the petition of the executors of the

last will and testament of Daniel L. Richardson, deceased, praying for leave to emancipate two slaves, according to the direction of their testator, beg leave to report that they do not believe any valid objection exists to the granting of the prayer of the petitioners. The undersigned cannot agree with the conclusions of the majority of said committee contained in their report, nor do they apprehend any evil consequences will arise from legislative sanction of the testator's intention.

The VIII article of the constitution grants the power to the Legislature "to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors and preventing them from becoming a public charge." Although the Legislature, by that provision of the constitution, has full authority to pass a general law to provide for the emancipation of all slaves, with the consent of their owners, and upon the above conditions, yet the policy of such a law, at the present time, might well be questioned. But the undersigned cannot perceive any objection, on the score of policy or otherwise, to the exercise of such legislative authority upon an isolated case like the present. It appears to have been the wish of the testator, in the present instance, to exercise an act of kindness and benevolence towards the slaves named, in strict accordance with a constitutional provision of the State. This desire may have been founded upon the meritorious claims of the slaves, upon a feeling of gratitude for past services, or upon a consideration of attachment and kindness creditable alike to the master and slaves.

Whatever may have been the motive of the testator, no improper one can well be conceived. The testator refers to the constitutional provision upon the subject and directs an application to the Legislature to carry his benevolent intention into effect. The undersigned are disposed to regard an application under such circumstances in the nature of a constitutional right which ought not to be withheld without strong and peculiar circumstances would justify it. It is true that the petitioners have the power to emancipate the slaves mentioned by removing them to a free State, which would render any application to the Legislature wholly unnecessary. But it may be possible that such mode of emancipation may entirely defeat the objects and wishes of the testator. Such emancipation, by turning them unprotected upon the world, might convert their liberty into a curse instead of a blessing. The undersigned, therefore, submit the accompanying bill to the Senate and recommend its passage.

D. C. VAN DERLIP,
A. H. LATIMER.

Mr. Cooke, from the committee on County Boundaries, to whom was referred a bill creating the county of Ellis, reported the same back to the Senate and recommended its passage, with the following amendment, viz :

In the first section, strike out all after the word "point" in the 3d line to "town" in the 5th line, and insert "one mile north of Robert H. Porter's house."

Mr. Robertson, chairman of the committee on Private Land Claims, to whom was referred a bill to authorize holders of head-right certificates, bounty warrants or land scrip to have the same surveyed in three or more lots, reported a substitute for the same and recommended its adoption.

Mr. Moffett, chairman of the committee on Engrossed Bills, reported the following bills and joint resolutions, viz : A bill to authorize any two county commissioners to perform the duties of Chief Justice of the county court, when said office is vacant, or when said officer is absent from the State or is unable or disqualified to act ; a bill to authorize and require the Commissioner of the General Land Office to issue a patent to Robert W. Latimer for 640 acres of land ; a bill to authorize the Commissioner of the General Land Office to issue a head-right certificate, first class, for one league and labor of land to James Taylor ; a bill to authorize and require the Commissioner of the General Land Office to issue a patent to William Shipp of Sabine county for one league of land ; and a joint resolution instructing our Senators and requesting our Representatives in the Congress of the United States to procure the establishment of certain mail routes upon which the mail shall be transported in coaches and hacks.

Mr. Wallace introduced a bill to amend the 17th section of the act to provide for the assessment and collection of taxes, approved 20th March, 1848 ; read first time.

On motion of Mr. Walker, a bill for the relief of the citizens of Mercer's colony was taken up and placed among the orders of the day.

ORDERS OF THE DAY.

A message was received from the Governor, transmitting the following communication :

EXECUTIVE OFFICE, December 12th, 1849.

Gentlemen of the Senate :

I have the honor to transmit herewith the reports received from the Treasurer since the adjournment of the last Legislature.

These reports, it was thought, should be accompanied by that of the Comptroller, and having since the receipt of the first named been in daily expectation of receiving one from that officer, I delayed sending in those I had received until I should be able to communicate both.

Your Obedient Servant,
GEO. T. WOOD.

On motion of Mr. Parker, the communication and accompanying reports were referred to the committee on Finance.

A bill to authorize and require the Commissioner of the General Land Office to issue a patent to William Shipp of Sabine county for one league of land; read third time and passed.

A bill to authorize the Commissioner of the General Land Office to issue a head-right certificate, first class, for one league and labor of land to James Taylor; read third time and passed.

Joint resolution instructing our Senators and requesting our Representatives in the Congress of the United States to procure the establishment of certain mail routes upon which the mail shall be transported in coaches and hacks.

Mr. Robertson moved to amend by striking out of the caption the word "hacks" and inserting "horse-back;" carried—bill read third time and passed.

A bill to authorize and require the Commissioner of the General Land Office to issue a patent to Robert W. Latimer for 640 acres of land; read third time and passed.

A bill to authorize any two county commissioners to perform the duties of chief justice of the county court, when said office is vacant, or when said officer is absent from the State or is unable or disqualified to act; read third time and passed.

A bill for the relief of the citizens of Mercer's colony, together with the report of the committee on Public Lands offering amendments thereto, was read, and amendments adopted; on motion of Mr. Walker, the blank in 7th section was filled with the word "ninth."

On motion of Mr. Pease, the bill was made the special order of the day for Tuesday, the 18th inst.

Joint resolution for the relief of John Barton; read and passed to the third reading.

A bill to amend the 3d, 4th, 6th and 7th sections of an act authorizing and requiring the county courts to regulate roads, appoint overseers, &c., approved March 18th, 1848, and substitute offered by the committee on Roads, Bridges and Ferries were

read, and, on motion of Mr. Robertson, laid on the table until the 15th inst.

The report of the majority of the committee on the Judiciary, on that portion of the Governor's message relating to the Supreme Court, was read.

Mr. Truit moved that the report be indefinitely postponed.

Mr. Latimer moved to lay the motion on the table until Thursday next; lost.

On motion of Mr. Phillips, the report was laid upon the table.

A message was received from the House of Representatives, informing the Senate that the House had passed the following resolution:

Resolved, That the House will elect a District Attorney for the Eleventh Judicial District, on the 18th inst., and that the Senate be invited to concur in the same.

Mr. Pease moved to lay the resolution on the table one day; lost.

On motion of Mr. Wallace, the resolution was laid on the table.

A message was received from the House of Representatives through their Chief Clerk, informing the Senate that the House had adopted the report of the committee of conference on the bill authorizing all State, District and County officers to continue to perform the duties of their offices until their successors are elected and qualified, according to law.

Also, that the House concurred in the amendment of the Senate to the resolution appointing a committee to wait upon his Excellency, the Governor elect, and inform him of his election, &c.

Also, that the House had passed the following bills and joint resolutions, viz:

A bill making an appropriation to defray the expenses incurred in publishing the proposed amendment to the constitution;

A bill to incorporate the Texana Academy;

A bill to amend an act to regulate fees of office, approved March 8th, 1848;

A bill to amend an act to regulate the public printing, approved March 8, 1848;

A bill to amend the sixth and thirty-fourth sections of an act to regulate proceedings in the District Courts, approved May 13th, 1846;

A bill to establish permanently the seat of justice of Leon county;

A joint resolution for the relief of the heirs and assignees of Benjamin D. Nebles, deceased;

A joint resolution, relative to extending the jurisdiction of the State of Texas over the south half of Red River ;

A joint resolution authorizing the Comptroller to sell certain lots in the city of Austin ; which were severally read first time.

The report of the committee of conference, on the bill authorizing all State, District and County officers to continue to perform the duties of their respective offices until their successors are elected and qualified, according to law, was read.

On motion of Mr. Van Derlip, the amendment proposed by the committee was amended by inserting after the word "elected" the words "or appointed."

The report as amended was then adopted.

A bill to authorize the several clerks of the county courts in the State of Texas to take the separate acknowledgment of married women to deeds executed by them ; read and passed to the third reading.

A bill to make valid the acts of Thomas R. Hill as clerk of the District Court in the county of Titus ; read and passed to the third reading.

A bill to provide for the removal of the munitions of war, belonging to the State of Texas, to the city of Austin ; read, and, on motion of Mr. Wallace, laid on the table.

A joint resolution for the payment of outstanding claims against the offices of Government ; read second time, and, on motion of Mr. Wallace, referred to the committee on Finance.

A bill to divide the State into two Supreme Court Districts ; read second time.

Mr. Wallace moved to refer the bill to a Select committee of five.

Mr. Robertson moved to indefinitely postpone the bill.

Mr. Portis moved a call of the Senate ; carried.

On motion of Mr. Robertson, the call was suspended.

Mr. Robertson, by leave, withdrew the motion to indefinitely postpone.

Mr. Van Derlip moved to amend the motion of Mr. Wallace by referring the bill to a special committee composed of one Senator from each Judicial District ; lost.

The question then recurred on Mr. Wallace's motion, which was carried.

Messrs. Wallace, Moffett, Ward, Grimes and Van Derlip were appointed said committee.

Mr. Grimes offered the following resolution :

Resolved, That it is the opinion of this Senate that the inte-

rest of the State at large would be enhanced by dividing the Supreme Court into three branches: one in the Eastern, one in the Middle and one in the Western portion of the State.

A bill to provide for the withdrawal of security on official bonds; read second time, and, on motion of Mr. Moffett, referred to the committee on the Judiciary.

Mr. Van Derlip offered the following resolution:

Resolved, That if the House of Representatives concur, the Legislature will adjourn on the 22d day of the present month, until Monday, the first day of January ensuing.

On motion of Mr. Cooke, the Senate adjourned.

FRIDAY, 9 o'clock, A. M., December 14th, 1849.

The Senate was called to order by the President. Senators present: Messrs. Cooke, Davis, Gage, Grimes, Hart, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Taylor, Fruit, Van Derlip, Ward, Walker and Wallace. The journals of yesterday were read and adopted.

Mr. Grimes, chairman of the committee on Finance, to whom was referred the report of the Treasurer of the State, recommended that the committee on Printing be instructed to contract for the printing of — copies of said report for the use of the Senate.

Mr. Phillips, chairman of the committee on the Judiciary, to whom was referred a bill to incorporate the Bexar Manufacturing Company, reported the same back to the Senate, without amendment, and recommended its passage.

Mr. Phillips, from the same committee, to whom was referred a bill to repeal the 1st section of an act supplementary to an act regulating the sale of runaway slaves, approved 27th January, 1844, reported a substitute therefor and recommended its passage.

Mr. Robertson, chairman of the committee on Private Land Claims, to whom was referred a joint resolution for the relief of James M. Manning, reported the same back to the Senate, without amendment, and recommended its passage.

Mr. Robertson, from the same committee, to whom was referred a joint resolution for the relief of the owner of a certain Austin city lot, reported that the committee deemed it inexpedient